



Commonwealth of Massachusetts  
Executive Office of Energy & Environmental Affairs

## Department of Environmental Protection

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**December 31, 2014**

### **Underground Storage Tank (“UST”) and Stage I Enforcement Discretion Directive for Owners and Operators subject to 310 CMR 80.00 and 310 CMR 7.24(3)**

Dear Underground Storage Tank and Motor Vehicle Fuel Dispensing Facility Owners and Operators:

The new Underground Storage Tank (UST) regulations at 310 CMR 80.00, the new Stage I vapor recovery regulations at 310 CMR 7.24(3) and the revised Stage II vapor recovery regulations at 310 CMR 7.24(6) will go into effect on January 2, 2015. MassDEP’s UST regulations will replace the Department of Fire Services (DFS) UST regulations at 527 CMR 9.00, which will be rescinded on January 1, 2015.

To assist Owners and Operators to maintain compliance under the new regulations, **MassDEP will exercise enforcement discretion until April 30, 2015 regarding the new UST and Stage I regulations (see details below)**. During this time, MassDEP will hold trainings for Owners, Operators and Third-Party Inspectors on the new requirements and provide outreach and compliance assistance to the regulated community. A schedule of workshops, meetings, and guidance has been posted on MassDEP’s website at <http://www.mass.gov/eea/agencies/massdep/toxics/ust/newregs.html>.

**MassDEP will exercise enforcement discretion regarding the new UST and Stage I regulations as follows:**

- For UST requirements at 310 CMR 80.00, MassDEP will not issue enforcement for violations found during the 120 day period (January 2, 2015 to April 30, 2015), **EXCEPT FOR FAILURE TO COMPLETE AND SUBMIT THIRD-PARTY INSPECTIONS THAT ARE DUE BETWEEN JANUARY 2, 2015 AND APRIL 30, 2015.**
  - Owners and Operators will maintain the same third-party inspection schedule they were on under the DFS regulations at 527 CMR 9.00.
    - For example, if under the DFS regulations at 527 CMR 9.00, a facility had a third-party inspection report due January 2, 2015, the facility’s Owner or Operator must submit the third-party inspection report on or before January 2, 2015.

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- For Stage I requirements that are contained in 310 CMR 7.24(3), MassDEP will not issue enforcement for violations found during the 120 day period (January 2, 2015 to April 30, 2015).

**This 120 day 'grace period' will allow time for the regulated community to learn about and implement new requirements, establish appropriate procedures and best practices at facilities, and arrange for any necessary upgrades to equipment.**

**THIS ENFORCEMENT DISCRETION DIRECTIVE WILL HAVE NO EFFECT ON DEADLINES, TIMELINES OR DATES CONTAINED IN THE REGULATIONS AFTER APRIL 30, 2015.**

Please note that MassDEP is NOT exercising enforcement discretion regarding the revised Stage II regulations at 310 CMR 7.24(6). The requirements for decommissioning Stage II systems were stated in an enforcement discretion directive issued by MassDEP on June 21, 2013. The revised Stage II regulations largely codify the requirements that were contained in the June 21, 2013 enforcement discretion directive, and supersede that directive. For information and guidance on decommissioning procedures, see <http://www.mass.gov/eea/agencies/massdep/air/programs/stage-ii-vapor-recovery.html>.

Nothing in this Enforcement Discretion Directive shall be construed in any way to affect MassDEP's legal rights pursuant to M.G.L. c. 210 and c. 111, § 142A – 142D, 142O and the implementing regulations promulgated thereto, 310 CMR 80.00 and 310 CMR 7.24. In particular, if violations of any regulations result in releases or threats of releases of oil or hazardous material to the environment, or in threats or impacts to public safety, public health or the environment, MassDEP reserves the right to pursue enforcement actions or other remedies to address such significant violations.

If you have any questions regarding the scope of this Enforcement Discretion Directive, please contact Jenny Outman by phone at 617-654-6586 or by email at [Jenny.E.Outman@state.ma.us](mailto:Jenny.E.Outman@state.ma.us). If you have any questions regarding technical implementation of the UST regulations or regarding the schedule for stakeholder or TPI workshops and meetings, please call the UST hotline at 617-556-1035, Extension 2 or send an email to: [DEP.UST@state.ma.us](mailto:DEP.UST@state.ma.us). If you have any questions regarding the Stage I or Stage II regulations, including Stage II decommissioning, please call the Stage II Hotline at 617-556-1035, Extension 1.

Sincerely,



David W. Cash  
Commissioner